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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (s) No. 57 of 2007

Petitioner	Manharan Lal Dhiver, S/o. Shri Kartik Ram Dhiver aged about 32 years, R/o. Village Tarenga, Tahsiol Bhatapara, Dist. Raipur, CG.

Versus

Respondents	1) State of Chhattisgarh, Through the Secretary, Panchayat and Rural Development, D.K.S. Bhawan, Raipur, CG.
	2) Joint Director, Panchayat and Social Welfare Raipur, CG.
	3) Chief Executive Officer, Bhatapara, Dist. Raipur, CG.
	4) Sarpanch, Gram Panchayat, Tarenga, Tahsil Bhatapara, Dist. Raipur, CG.
	5) The Collector, Raipur.
	6) Parmanand Kashyap, Sahayak, Gram Panchayat Adhikari, Tarenga, Tahsil Bhatapara, Dist. Raipur, CG.

(Writ Petition under Article 226 of the Constitution of India)

SB: Hon'ble Shri Justice Satish K. Agnihotri

Present:

Shri Parag Kotecha, counsel for the petitioner.
Ku. Sunita Jain, Panel Lawyer for respondents No.1 to 5/State.
None for respondent No.6.

ORAL ORDER
(Passed on 2nd May, 2007)

Learned counsel appearing for the petitioner submits that the suspension order was passed on 6-9-2006 (Annexure P/2) under the provisions of Rule 9 (1) of Chhattisgarh Civil Services (Classification, Control and Appeal) Rules 1966 (for short, "the Rules 1966) which

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provides for suspension, in case of contemplation of, or pending enquiry or where in respect of a criminal case, an investigation, enquiry or trial is pending.

2) In the present case, after suspension order, no show cause notice has been issued till date and there is no enquiry, investigation, trial in criminal case is pending against the employee. Under sub-rule (2-a) of Rule 9 of the Rules 1966, it is further prescribed that a copy of the articles of charges, the statement of imputations of misconduct or misbehaviour and a list of documents and witnesses by which each article of charge is proposed to be sustained, is not issued within a period of 45 days, the order of suspension has to be revoked. Proviso to sub-rule (2-a) of Rule 9 of the Rules 1966, provides for 90 days, in case where disciplinary authority is the State Government.

3) According to learned counsel appearing for the petitioner, no show cause notice or articles of charges has been issued till date. More than 90 days have elapsed, therefore, it can be held that there is no contemplation of any disciplinary proceeding against the petitioner. In absence of contemplation of disciplinary proceeding or pendency of disciplinary proceeding, an employee may not be placed under suspension order.

4) In view of the foregoing provisions of law and applying to the facts of the present case, the impugned orders dated 6-9-2006 (Annexure P/2) and 12-9-2006 (Annexure P/3) cannot sustain. The contention of the petitioner deserves acceptance.

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5) Accordingly, the petition is allowed and the impugned orders dated 6-9-2006 (Annexure P/2) and 12-9-2006 (Annexure P/3) are quashed. However, the respondents are granted liberty to file a writ petition for modification or review of the order in the event it is found that the facts stated above are contrary to law or otherwise.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge

Raju